

# Village of Canal Winchester 36 South High Street Canal Winchester, Ohio 43110-1213

Village Council Tuesday, September 2, 2008 7:00 PM

#### **Minutes**

Call to Order:

Mr. Deeds called the meeting to order at 6:59pm

Pledge of Allegiance:

Mrs. Rush-Ekelberry led the Pledge of Allegiance

Roll Call:

John Bender

Rick Deeds

Bruce Jarvis

Bobbie Mershon

Victor Paini

Marilyn Rush-Ekelberry

Leah Turner

**Approval of Minutes:** 

Dr. Bender moved to approve the minutes from the August 18<sup>th</sup> Council meeting and Public Hearing. Mrs. Mershon seconded the motion.

VOTE:

AYES Dr. Bender, Mr. Deeds, Mrs. Mershon, Mr. Paini,

Ms. Rush-Ekelberry, Mr. Jarvis

**NAYS** 

Mrs. Turner abstained.

Motion carried.

### **Communications & Petitions:**

A notice was received from Department of Commerce Division of Liquor Control – Application for new permit by Golden China Canal Winchester, Inc. located at 6346 Gender Road. Permit Class – D2 Wine and certain prepackaged drinks for on premises or in sealed containers for carry out.

A notice was received from Waste Management regarding rate adjustment to be effective October 1, 2008. New Monthly rate will be \$9.19 per month an increase of \$.44 per month plus Fuel Surcharge.

## **Village Residents Comments:**

Five-minute limit per person

Jeffrey Bond, of 146 Washingon St. AptC, believes that we should slow down in the development world. The apartment complexes and new development is much less desirable for the community. He believes we need to see what the community needs and then when developers come in, tell them to make it fit to what we need. We need a "New Urban Displanner"; which is a person who will plan the layout of the community in a logical manner. The strip malls that are going in are very short-sighted

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and will be empty in 20 years. Sustainability is the key to a strong community.

**Louis Jeffrey Hanes**, of 3405 S. Hamilton, worked with Mr. Stebelton on the imminent domain issue and Mr. Stebelton is refusing to pay him until he is paid by the Village. He wants to know who to talk to to get paid.

Mr. Hollins noted that is there hasn't been a hearing yet, there will be one set soon. We have attempted to negotiate through an attorney and currently have an offer on the table, but we have to work through his attorney and talks are still ongoing.

**Pete Stebleton** stated that he doesn't believe he had a choice to not go to court. The offer to settle doesn't seem right. He doesn't get a penny for all of the aggravation he has gone through.

Mr. Paini asked if there were invoices that the attorneys were going through. Mr. Hollins stated that they have offered what would amount to about 4/5 of what they were asking. We legitimately had questions about some attorney fees that pre-dated the litigation. Detailed correspondence has been going back and forth but a response has not been received from Mr. Stebleton's attorney.

Mrs. Turner clarified that the surveyor, Mr. Hanes, was not hired by the Village, but by Mr. Stebleton.

Mr. Jarvis asked if the surveyor fees are part of the money that is being contested. Mr. Hollins stated that there was one land planner that the court said was not qualified to testify about the land plan, though he doesn't know if it was Mr. Hanes or the other gentleman, and they take issue with the charges for a surveyor that wasn't qualified to testify.

Mr. Paini asked what the ETA was on getting this resolved. Mr. Hollins stated that they would love to speak to Mr. Stebleton's attorney but Mr. Stebleton has to give his attorney permission to do that. We are probably \$13,000 short on a total \$60,000 bill and would be willing to pay out the uncontested portion right now, but the additional \$13,000 is something that the Village believes should be looked into. Further discussion ensued.

## **ORDINANCES:**

#### **FIRST Reading**

Sponsor:

Mr. Jarvis

O-09-08A

AN ORDINANCE TO AUTHORIZE THE MAYOR TO ENTER INTO AN AGREEMENT

WITH ROBERT E. CURTIN, JR. TO PROVIDE INCOME TAX COMPLIANCE

SERVICES FOR THE VILLAGE.

Mr. Jarvis read the ordinance. First reading only.

Sponsor:

Mr. Deeds

O-09-08B

AN ORDINANCE TO AMEND THE 2008 APPROPRIATION ORDINANCE 77-07

Amendment #3

Mr. Deeds read the ordinance. First reading only.

## **SECOND Reading**

Sponsor: Dr. Bender

O-08-08H AN

AN ORDINANCE AUTHORIZING THE MAYOR TO SEEK FINANCIAL ASSISTANCE FROM THE SCIP/LTIP FOR FUNDING OF A CAPITAL INFRASTRUCTURE IMPROVEMENT PROJECT, GENDER ROAD & WINCHESTER BOULEVARD INTERSECTION IMPROVEMENTS AND

**DECLARING AN EMERGENCY** 

Dr. Bender read the ordinance and moved to suspend the rules for a third reading. Mrs. Rush-Ekelberry seconded the motion. (This is part of a grant application that is due September 8<sup>th</sup>)

VOTE:

AYES Dr. Bender, Mr. Deeds, Mrs. Mershon, Mr. Paini,

Ms. Rush-Ekelberry, Mrs. Turner

**NAYS** 

Motion carried.

Dr. Bender moved to adopt Ordinance 46-08. Mrs. Mershon seconded the motion.

VOTE:

AYES Dr. Bender, Mr. Deeds, Mrs. Mershon, Mr. Paini,

Ms. Rush-Ekelberry, Mrs. Turner

**NAYS** 

Motion carried.

## **THIRD Reading**

Sponsor: Mr. Paini

O-08-08A

AN ORDINANCE TO REPLACE CHAPTERS 1101 THROUGH 1129 PLUS

APPENDICES A, B, C, D AND E INCLUSIVE OF THE CODIFIED ORDINANCES BY

ADOPTING NEW SUBDIVISION REGULATIONS

Mr. Paini read the ordinance and moved to adopt 47-08. Dr. Bender seconded the motion.

VOTE:

AYES Dr. Bender, Mr. Deeds, Mrs. Mershon, Mr. Paini,

Ms. Rush-Ekelberry, Mrs. Turner

**NAYS** 

Motion carried.

Sponsor: Mrs. Mershon

O-08-08B AN ORDINANCE TO ADOPT THE STORMWATER DESIGN MANUAL

Mrs. Mershon read the ordinance and moved to adopt 48-08. Mrs. Turner seconded the motion.

VOTE:

AYES Dr. Bender, Mr. Deeds, Mrs. Mershon, Mr. Paini,

Ms. Rush-Ekelberry, Mrs. Turner

**NAYS** 

Metion carried.

Sponsor: Mrs. Mershon

O-08-08C AN ORDINANCE TO AMEND CHAPTER 1175 OF THE CODIFIED ORDINANCES BY

ADOPTING THE STREAM CORRIDOR PROTECTION POLICY AND STREAM

**CORRIDOR PROTECTION ZONE** 

Mr. Jarvis asked if this had been amended to a 35' minimum. It had not yet, but Mr. Farst presented a new map with the 35' minimum and floodways shown. Discussion ensued regarding the specifics of the map.

Mr. Jarvis moved to amend the corridor to a 35' minimum. Mrs. Turner seconded the motion.

VOTE:

AYES Dr. Bender, Mr. Deeds, Mrs. Mershon, Mr. Paini,

Ms. Rush-Ekelberry, Mrs. Turner

**NAYS** 

Motion carried.

Mrs. Mershon moved to adopt 49-08 as amended. Mr. Paini seconded the motion.

VOTE:

AYES Dr. Bender, Mr. Deeds, Mrs. Mershon, Mr. Paini,

Ms. Rush-Ekelberry, Mrs. Turner

NAYS

Motion carried.

Sponsor: Mr. Paini

O-08-08E

AN ORDINANCE TO UPDATE THE FEES TO BE ASSESSED FOR THE CANAL

WINCHESTER MAYORS COURT.

Mr. Paini read the ordinance and moved to adopt 50-08. Mrs. Mershon seconded the motion.

VOTE:

AYES Dr. Bender, Mr. Deeds, Mrs. Mershon, Mr. Paini,

Ms. Rush-Ekelberry, Mrs. Turner

**NAYS** 

Motion carried.

#### **RESOLUTIONS**

#### SECOND Reading

Sponsor: Mr. Paini

R-08-08B A RESOLUTION TO ADOPT THE FIVE YEAR CAPITAL IMPROVEMENTS

PLAN/MAINTENANCE OF EFFORT FOR THE CALENDAR YEARS 2009-2013 FOR

THE VILLAGE OF CANAL WINCHESTER OHIO

Mr. Paini read the resolution and requested to suspend the rules for third reading. Mr. Deeds seconded the motion. (This is part of a grant application that is due September 8<sup>th</sup>)

VOTE:

AYES Dr. Bender, Mr. Deeds, Mrs. Mershon, Mr. Paini,

Ms. Rush-Ekelberry, Mrs. Turner

**NAYS** 

Motion carried.

Mr. Paini moved to adopt Resolution 12-08. Dr. Bender seconded the motion.

VOTE:

AYES Dr. Bender, Mr. Deeds, Mrs. Mershon, Mr. Paini,

Ms. Rush-Ekelberry, Mrs. Turner

NAYS

Motion carried.

# **THIRD Reading**

Sponsor: Mr. Jarvis

R-08-08A

A RESOLUTION DECLARING THE OFFICIAL INTENT AND REASONABLE

EXPECTATION OF THE VILLAGE OF CANAL WINCHESTER ON BEHALF OF THE STATE OF OHIO (THE BORROWER) TO REIMBURSE ITS GENERAL FUND OR ISSUE 2 FUND FOR THE THRUSH DRIVE RECONSTRUCTION PHASE 2 - CC06L

WITH THE PROCEEDS OF TAX EXEMPT DEBT OF THE STATE OF OHIO.

Mr. Jarvis read the resolution and moved to adopt Resolution 13-08. Mr. Paini seconded the motion.

VOTE:

AYES Dr. Bender, Mr. Deeds, Mrs. Mershon, Mr. Paini,

Ms. Rush-Ekelberry, Mrs. Turner

NAYS

Motion carried.

Mayor Ebert commented that Labor Day weekend was one of the largest ever Mayor's Report: attended. There was some criticism about the gaps in the parade. That was due to an emergency on Washington Street which caused the parade to be completely stopped for about 20 minutes. The event was a success.

Public Works Director: See written report.

**Development Director:** See written report.

Community Affairs Director: See written report.

Village Solicitor: Mr. Hollins noted that we are continuing to get inquiries about the golf cart legislations or lack thereof. The alternative vehicle movement is taking off and we are being used as a model community for several areas around the country.

No need for executive session.

Fairfield County Sheriff: Labor Day went very well. The Beer Tent had no problems or related issues. Four Community Watch people helped out each day and with the parade and helped to make it go smoothly. Sgt. Kern read the call report.

Finance Director: See written report.

Ms. Osborn was commended. Dr. Bender noted that our Bond rating has improved and believes it is due to our administration and the work that Ms. Osborn has done. He is very appreciative of her hard work.

## Council Reports:

Old Town Committee Finance Committee Service Committee Safety Committee Monday, September 8, 2008 at 5:45 PM Monday, October 6, 2008 at 5:45 PM Monday, September 15, 2008 at 5:45 PM Monday, September 8, 2008 at 5:00 PM

**New Business:** 

None at this time

<u>Old Business:</u> Mrs. Turner asked about apartments that are being developed on Groveport Rd. She wanted clarification that they are truly apartments and not condos. Mr. Jarvis stated that it is not a zoning issue so that unless P&Z do not accept the plans and appeal to Council, Council has no say in the matter.

Mrs. Turner asked if there was another way that Council could take a look at that. It was stated there was not.

Mr. Deeds asked if there was a density, building materials, etc review that will still have to go through Planning and Zoning. Mr. Hollins stated there was and that there may be an appeal process, like a staff appeal process.

Mrs. Turner believes it is a mistake for us to get into apartments. Mr. Jarvis concurs.

Mr. Deeds suggested that people find a Planning and Zoning employee and let them know their opinion.

Mr. Jarvis added that there should be a designation between apartments and condos in the zoning code.

Mrs. Turner will sponsor any legislation that will allow them to revisit the zoning.

Adjourn to Executive Session: Not needed tonight.

<u>Adjournment:</u>

Mr. Paini moved to adjourn the meeting. Mrs. Turner seconded the motion.

Time out: 8:05pm

Clerk of Council

President of Council

Date

Mayor

NOTE: The minutes set forth herein are an extract of the Council meetings. Anyone desiring a transcript of the complete minutes of the Council meeting may obtain the same at a cost of \$10.00 per page.